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TC 1700

09/600,094

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	BUCHWALD ET AL.	Examiner:	M. WALLENHORST
Serial No.:	09/600,094	Group Art Unit:	1743
Filed:	AUGUST 22, 2000	Docket No.:	12335.1USWO
Title:	METHOD AND APPARATUS FOR DETERMINING BLOOD OXYGEN TRANSPORT		

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 6, 2004.

By:

Name:

*Krista Alwack*  
*Krista Alwack*

**TERMINAL DISCLAIMER TO OBVIATE**  
**A DOUBLE PATENTING REJECTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Petitioners, Henry Buchwald, residing at 6808 Margarets Lane, Edina, Minnesota 55439; Hector J. Menchaca, residing at 13834 Essex Trail, Apple Valley, Minnesota 55124; Van N. Michalek, residing at 2839 Aglen Avenue North, Roseville, Minnesota 55113; Thomas J. O'Dea, residing at 925 Arbogast Street, Shoreview, Minnesota 55120; and Thomas D. Rohde, residing at 702 Third Avenue SE, Minneapolis, Minnesota 55414 represent that they are the owner of the entire right, title and interest in U.S. Patent Application Serial No. 09/600,094, filed on August 22, 2000 and entitled METHOD AND APPARATUS FOR DETERMINING BLOOD OXYGEN TRANSPORT.

Petitioners, Henry Buchwald, Hector J. Menchaca, Van N. Michalek, Thomas J. O'Dea and Thomas D. Rohde, hereby disclaim, except as provided below, the terminal part of the

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statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term of any patents that issue from Serial No. 09/645,236 and U.S. Patent No. 6,037,181. Petitioners also hereby agree that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to U.S. Serial No. 09/645,236 and U.S. Patent No. 6,037,181, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors, or assigns.

In making the above disclaimer, Petitioners do not disclaim the terminal part of any patent granted on the above-identified application that would extend to the full statutory term as presently shortened by any terminal disclaimer of U.S. Serial No. 09/645,236 and U.S. Patent No. 6,037,181, in the event that U.S. Serial No. 09/645,236 and U.S. Patent No. 6,037,181 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321(a), has all claims cancelled by a reexamination certification, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

This Terminal Disclaimer is submitted on behalf of the Petitioners, the undersigned (Applicants' Attorney) being empowered to act on behalf of the Petitioners.

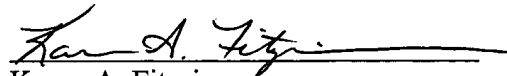
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States

Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

Date: Jan. 6, 2004

  
Karen A. Fitzsimmons  
Reg. No. 50,470  
KAF:PLSkaw



**THE STATEMENT BELOW IS FOR OFFICE USE ONLY**

In accordance with the decision granting the petition filed on \_\_\_\_\_, \_\_\_\_\_,  
this terminal disclaimer is accepted. The period of patent lapse specified above has been  
accepted as equivalent to \_\_\_\_\_ months.

\_\_\_\_\_  
Petitions Examiner

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